

§ 40.164

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EFFECTIVE DATE NOTE: By T.D. TTB–89, 76 FR 3513, Jan. 20, 2011, § 40.163 was revised, effective Feb. 22, 2011 through Feb. 24, 2014.

§ 40.164 Special rule for taxes due for the month of September.

(a) *Division of second semimonthly period.* (1) *General.* Except as otherwise provided in paragraph (a)(2) of this section, the second semimonthly period for the month of September is divided into two payment periods, from the 16th day through the 26th day, and from the 27th day through the 30th day. The manufacturer shall file a return on TTB F 5000.24, and make remittance, for the period September 16–26, no later than September 29. The manufacturer shall file a return on TTB F 5000.24, and make remittance, for the period September 27–30, no later than October 14.

(2) *Taxpayment not by electronic fund transfer.* In the case of taxes for which remittance by electronic fund transfer (EFT) is not required by § 40.165a, the second semimonthly period of September is divided into two payment periods, from the 16th day through the 25th day, and from the 26th day through the 30th day. The manufacturer shall file a return on TTB F 5000.24, and make remittance, for the period September 16–25, no later than September 28. The manufacturer shall file a return on TTB F 5000.24, and make remittance, for the period September 26–30, no later than October 14.

(b) *Amount of payment—Safe harbor rule.* (1) *General.* Taxpayers are considered to have met the requirements of paragraph (a)(1) of this section if the amount paid no later than September 29 is not less than 11/15ths (73.3 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(2) *Taxpayment not by EFT.* Taxpayers are considered to have met the requirements of paragraph (a)(2) of this section if the amount paid no later than September 28 is not less than 2/3rds (66.7 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(c) *Weekends and holidays.* If the required taxpayment due date for the pe-

riod September 16–25 or September 16–26, as applicable, falls on a Saturday or legal holiday, the return and remittance are due on the immediately preceding day. If the required due date falls on a Sunday, the return and remittance are due on the immediately following day.

(d) *Example: Payment of tax for the month of September.* (1) *Facts.* X, a manufacturer of tobacco products required to pay taxes by electronic fund transfer, incurred tax liability in the amount of \$30,000 for the first semimonthly period of September. For the period September 16–26, X incurred tax liability in the amount of \$45,000, and for the period September 27–30, X incurred tax liability in the amount of \$2,000.

(2) *Payment requirement.* X's payment of tax in the amount of \$30,000 for the first semimonthly period of September is due no later than September 29 (§ 40.165(a)). X's payment of tax for the period September 16–26 is also due no later than September 29 (§ 40.164(a)(1)). X may use the safe harbor rule to determine the amount of payment due for the period of September 16–26 (§ 40.164(b)). Under the safe harbor rule, X's payment of tax must not be less than \$21,990.00, that is, 11/15ths of the tax liability incurred during the first semimonthly period of September. Additionally, X must pay the tax in the amount of \$2,000 for the period September 27–30 no later than October 14 (§ 40.164(a)(1)). X must also pay the underpayment of tax, \$23,010.00, for the period September 16–26, no later than October 14 (§ 40.164(b)).

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§ 40.165 Times for filing semimonthly return.

(a) *General.* Except as otherwise provided in § 40.164 and in paragraph (b) of this section, semimonthly returns on TTB F 5000.24 must be filed, for each return period, not later than the 14th day after the last day of the return period. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance are due on the immediately preceding day that is not a